

Applicant: DeWolf et al.
Serial No. 09/740,568
Filed: December 18, 2000
Reply to Non-Final Office Action of February 1, 2006

categorizing the information related to the asset into multiple attributes;
managing read and write privileges to the asset registry for a plurality of entities; and
providing access to asset information to entities that have an interest in the asset,
wherein an entity having write privileges for a first attribute of the asset can write data
related to a change in the first attribute of the asset to the asset registry, and an entity
having read privileges for a second attribute of the asset can read data related to the
second attribute.

Remarks

Applicant notes that prosecution of this application is in its 6th year, and respectfully requests that prosecution be concluded as soon as possible. Applicant believes application is in condition for allowance. The following remarks are respectfully submitted.

Incorrect Filing Date

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Applicant notes that the filing date listed on PAIR, 05-02-2001, is incorrect. The filing date of the present application is 12-18-2000, as indicated by the petition granted on 07-18-01 by the Office, said petition being part of the official file and is reflected in PAIR. Applicant respectfully requests that the examiner confirms same and updates the file wrapper and PAIR to reflect the actual filing date of 12-18-2000.

Status

Claims 1-5, 7-9, 13-14, 17-19, 21-22, 24-25, 27-29, 31-33, 35, 37-38, 42-43, 46-48, 50-52, 54-61, 64-71, 74, 76-79, and 81-89 are pending. Applicant notes that pending claim 85 has not been the subject of rejection in this action. By this amendment, claims 1, 25, 27, 28, 29, 31-33, 35, 37-38, 42-43, 46-47, 50, 71, and 84-87 have been amended. The Examiner's rejection's are addressed and traversed below, and reconsideration is respectfully requested. With this amendment, including the remarks and discussion herein, Applicant believes the application is in condition for allowance.

Claim Objections

Claims 71, 84-85, and 87 are objected to under 37 CFR 1.75(c) as being allegedly of improper dependent form for failing to further limit the subject matter of the previous claim. Applicant has amended the claims 71, 84, and 85 and believes they are in proper form and are allowable. Claim 71 and 87 are product-by-process claims and are statutorily proper. Claim 85 further limits claim 1 by requiring that each step of the method of claim 1 be performed out by one or more processors and claim 84 further limits claim 52 by adding the additional element of the asset record to the system.

Rejections Under 35 101

Claims 71, 74, 84, and 87 have been rejected under 35 USC 101 as allegedly being directed to non-statutory subject matter. Applicant traverses the rejections and has amended claim 87 to recite "computer readable" but points out that claims 71, 74, and 84, already positively recite that the record is on computer readable media, and it is clear that that record is functional and can function with a computer to effect a practical result. The rejections are believed to be overcome.

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Rejections Under 35 112 Second Paragraph

Claims 25, 27, 28-29, 31-33, 35, 37, 38, 42, 43, 47-48, 50, and 51 have been rejected under 35 USC 112 second paragraph for allegedly failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Applicant traverses the rejections in light of the amended claims and following remarks.

Examiner states that it is unclear how the claims further limit independent claim 1, and also that the claims are deficient because they do not functionally relate to any of the process steps of claim 1. Applicant disagrees and refers examiner to an earlier amendment by applicant which addressed this same rejection. The claims, those amended and those previously presented do further limit claim 1 and are functionally related thereto.

Specifically, with respect to claims 27 and 51, "wherein an owner of the asset manages the read and write privileges" is a perfectly valid limitation to the method claim. The asset owner is a specific entity and therefore an limitation to the parent claim (i.e., in which there is no limitation as to which entity manages the privileges). The meaning and scope of the claim is definite and will be apparent to one of ordinary skill in the art in light of the specification. An analogy to a claim for a method of making bread mix is instructive: If the independent process claim entails the steps of mixing flour, sugar, yeast, and baking soda, then a valid dependent claim could be one that specifies that the flour is wheat flour or that the sugar is brown sugar. Applicant's claim are further limiting; the independent claim does not specify under what circumstances or by whom the read and write privileges are managed, but only how the management is accomplished, i.e., by one or more processors. Similarly with respect to claims 28 and 29, as amended, the limitations "wherein the data recorded comprises further data related to one or more transactions pertaining to the asset" and "wherein said data ...comprises data related to a change in ownership of an asset or a change in value of the asset" further limits claim 1 by requiring a specific type of data to be recorded and categorized. This analysis applies as well to the remaining claims rejected under this rationale, 31-33,35,37-38,42-43, and 47-48.

The utilization of dependent claims to claim specific embodiments and variations is a well known and accepted practice in claims drafting: The dependent claims under discussion further limit independent claim 1 by specifying, for example, a property, description, or nature of a class of assets,

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or what types of information or attributes are recorded and categorized, and which specific entities have access to read and write privileges. Of course the process steps listed in claim 1 are to be performed in the dependent claims as well; this is basic fact and essential ramification of the relationship between an independent claim and claims which depend therefrom. So for example, the method of claim 1 comprises process steps which are applied to assets in general, whereas for the dependent claims, one or more of those specific steps are applied to a specific class of assets only or a specific property or attribute of assets, a specific entity, specific read and write privileges, specific documentation, etc. Furthermore, although the method steps of assigning, recording and categorizing the information, as well as managing read and write privileges and providing access to information to various entities does occur for each class of assets, the specifics of the information, and the specifics of how that information is assigned, categorized, recorded, and the specific entities and specific access rights provided can and will depend to varying extents on the type, class, or nature of the asset. This is clearly laid out and discussed in the specification (see for example FIGS 3-5 and 6-8 and the discussion thereof). Different classes of information and attributes are associated with different types of assets, and different classes of entities have varying degrees of interest in the asset or attributes thereof. For instance, with a multi-component or a multi-vendor asset may have components from multiple vendors and may have varying interests from those multiple vendors, and thus the method steps of categorizing and recording information, and managing privileges and providing access will entail the categorization and recording of information and attributes unique to the asset class (e.g., each component part) and managing privileges and providing access to a unique 'class' of entities (e.g., each of the component producers or vendors). The distinct nature, class, or features of the asset can further limit the categorization and recording of information and attributes specific and unique to the class, property or feature of the asset as well as further limiting the specific entities and interests thereof and the distinct privileges and access granted to those specific entities. With respect to claims 28-44 and 47-49, Examiner asserts that the step of "storing data related to any change in status of the asset" "*does not functionally relate (or link) to any process recited in claim 1 since each process step can be performed regardless of whether the data related to any change in status of the asset is stored or not.*" Applicant disagrees. Claims 29, 31-33, 35, 37-38, 42, 43, and 47-48, further limits claim 1 by requiring that specific information related to a status change in the asset is recorded in the asset registry. Examples of such status changes, discussed in the specification and

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detailed in subsequent claims include changes in ownership, value/appraisal, insurance, financing, repair history, added documentation, etc. Thus, any status change would potentially affect what and how the information related to that status change is recorded and categorized and which entities would be provided access (and level of access) as a result of that status change. The same is true for transactions affecting, causing or resulting from the status change. The specifics of such transactions, how they change the status (or any property) of the asset, and how those changes are to be recorded and/or how the various relevant entities grant or are granted privileges and access to the registry further limits the steps of claim 1. While the process steps of claim 1 don't require status changes to be recorded, the dependent claims under discussion specifically claim that such status changes will be recorded and thus are definite and particularly point out and distinctly claim Applicant's invention.

Claims 27, 37, and 46 have been amended to have proper antecedent basis.

Claims 25 and 50 have been amended and are believed proper and definite.

Claims 71, 74, and 84 have been amended and are believed to be proper and definite.

Claim 85 has been amended to recite the actual performance of the functionality and is believed to be proper and definite.

Claim 86 has been amended to refer to claim 55 and now has proper antecedent basis.

The Applicant has shown that the claims, as presented in this amendment, in the light of the specification are not indefinite under 35 USC 112 second paragraph and that the Applicant has particularly pointed out and distinctly claimed the invention of the Applicant, and the rejections have been overcome. Withdrawal of the rejections is respectfully requested.

Rejections Under 35 USC 102

Claims 1-5, 7-9, 13-14, 22, 25, 27-28, 46, 52, 54-61, 65, 74, 76-77, 79, 81, 86, 88, and 89 stand rejected under 35 USC 102(a) as being allegedly anticipated by WO9724687 to Logan. Applicant respectfully traverses these rejections, and submits that a *prima facie* case of anticipation has not been established.

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Logan discloses an operational management system (OMS) for interconnecting cable systems and providing a cable television product to customers that allows for centralized and hierarchical control by the cable operators. Logan's discloses a hierarchical system where the lower nodes in the hierarchy are forced to abide by the constraints initially set at a higher node level. Examiner has apparently taken the position that a product associated with a cable television service provider is equivalent to an asset as described and claimed by applicant, and further that the setting of policies at higher nodes in Logan is equivalent to the managing of read and write privileges. Applicant disagrees and believes this analoging of Logan to applicant's invention is improper and cannot be supported. Applicant believes that examiner has improperly construed the claim elements, that is, has not properly determined the meaning of the claim elements in light of the specification, which, even if interpreted as broadly as possible (in light of and consistent with the specification) is not anticipated by Logan.

In an earlier action, the claims were rejected as obvious in light of a patent which described a revision control system used in software development and project management system. Applicant overcame that rejection by explaining the distinction of the present invention to those types of systems. Logan is very similar in teaching to the earlier reference. Applicant respectfully requests examiner view the claims in light of the specification. In deciding the issue of anticipation, the trier of fact must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipating reference *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452 Fed Cir 1984. When an examiner rejects a claim under § 102, he has the initial burden of establishing anticipation. "[I]t is incumbent upon the Patent Office . . . to set forth clearly why it regards a claim to be anticipated" *In re Mullin*, 481 F.2d 1333, 1336, 179 U.S.P.Q. 97, 100 (C.C.P.A. 1973). Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Logan does not anticipate the claims because Logan does not disclose each and every element as required.

To anticipate a claim, a single source must contain all of the elements of the claim. See *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986); *Atlas Powder Co. v. E.I. du Pont De Nemours & Co.*, 750 F.2d 1569, 1574, 224 U.S.P.Q. 409, 411 (Fed. Cir. 1984). Moreover, the single source must disclose all of the claimed elements

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“arranged as in the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *Connell v. Sears Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983). The single reference must describe and enable the claimed invention, including all claim limitations, with sufficient clarity and detail to establish that the subject matter already existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention. *Crown Operations International, Ltd. v. Solutia Inc.*, 289 F.3d 1367, 1375, 62 USPQ2d 1917, 1921 (Fed. Cir. 2002); *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990). Logan does not contain each and every element as arranged in the claim, and moreover does not describe and enable the claim invention.

Examiner points to the Logan disclosure of p24, 28, and 30 and states that “authority to define a product’ implies a ‘write’ privilege and ‘made available to the various node systems’ implies that users ... have ‘read’ privilege”. Applicant disagrees. Logan states clearly (page 24) “client requests are initiated at the transaction generators” ... “The transaction generators make requests for reads, writes, and updates...”. This is not “managing read and write privileges” but simply the fulfillment by the process servers of read and write requests from the system, similar to any client server computer enviroment (see p19-20 for further description). Logan’s discloses a hierarchical system where the lower nodes in the hierarchy are forced to abide by the contraints initially set at a higher node level, but does not disclose, teach or suggest the managing of read and write privileges to a plurality of entities. Logan states (p27 line 25 – p28 l6) “user having access to the OMS defines a product and product parameters which become universal information for all cable systems...”the product parameters defined at the higest level...define the standards that are adhered to at all lower level” and (p31 l 25-25) “prodcuts may only be defined at lower levels if that product has been defined at the highest level” ... “any parameter of a product...must fall within the parameters established at every higher level (p32 l2-3) and p35 line28 –p36 lin3) “all lower level defintions...must comply with boundaries and conditions established at the corporate or highest level authorization”. Examiner is referred to page 51 and thereafter which describes “Hierarchical Control Generally” further stating “unless a product is defined by the OMS, none of the hierarchical systems may define that product”. A key feature of Logan is that “at each level in the hierarchical chain may establish parameters ...which must be followed by any entities lower on the hierarchical chain” (p.2

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line 29- p3 line2). Logan does not disclose teach or suggest the claimed method including the managing of the read and write privileges.

With respect to claims 2,3 and 76-77, Logan teaches the creation and subsequent destruction of a Cabletv product record, but this equating this to managing read and wrtie privileges and storing information over the life cycle of the asset cannot be supported. For example, claim is limited to a portion of life cycle – as per the specification, the asset record is created after the asset is created or purchased. This is not the case in Logan where the record must be created as the product is defined; i.e., there can be no product without the record. Moreoever Logan discloses no ownership change as claimed in claim 76, nor does Logan disclose a life cycle which does not include the production of the product (see above). With respect to claim 4 and 5, 7 and 8 although Logan discloses multiple attributes that may be associated for a given product, this is not the same as multiple components or multi vendors. With respect to claims 13 and 14, Logan does not teach that documents are associated with the asset. Regarding claim 27, as pointed out above there is no managing of read and write privileges as in the claimed invention; when a product record is created in the hierarchy, all lower nodes are bound my the parameters set at the higher node; this is not managing read and write privileges. Furthermore, there is no concept of “owner” in Logan. With respect to claim 28, Logan does not teach this element of storing transactions; the revenue split referenced by examiner is not related to transactions but to which package of products have been subscribed to.

Regarding claim 46, Logan does not disclose a customer having read privileges for an attribute of an asset; the fact that a customer can view programming that has been subscribed to is not tantamount to having read privileges to an attribute. With respect to claim 52, as already stated regarding claim 1 Logan does not teach or suggest and electronic asset registry or an interface for managing read and write privileges to various entities interested in assets. Furthermore, Logan does not teach an electronic asset registry as described and claimed in the present invention, but rather a operational management'system for a cable tv system for defining products in a hierarchical fashion.

With respect to claim 55, as already discussed regardin claims 1 and 52, Logan does not teach or suggest an asset registry as in the claimed invention and does not disclose or teach a means for managing read and write privileges. The sections of Logan referenced by the examiner to not constitue managing read and write privileges; the fact that a customer in Logan may be able to view a

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product (e.g., cable tv) is not the same as having read privileges to attributes of assets as in the claimed invention. The rejections have been overcome and should be withdrawn.

Rejections Under 35 USC 103

Claims 17-19, 21, 24, 27, 46, 50-51, 64, 66-70, 78, and 81-83 stand rejected under 35 USC 103(a) as being allegedly unpatentable over WO9724687 to Logan. Applicant traverses the rejections and requests reconsideration.

In view of the current claim amendments and the all reasons discussed above relating to and overcoming the 102 rejections, applicant believes the 103 rejections have also been overcome and requests withdrawal of the rejections. Nevertheless, a *prima facie* case of obviousness has not been made because Logan is non-analogous art and furthermore, no substantive reasons as to how one could or why one would be motivated to modify Logan to arrive at applicant's invention has been provided.

"Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under 35 U.S.C.S. § 103, teachings of references can be combined only if there is some suggestion or incentive to do so. Although couched in terms of combining teachings found in the prior art, the same inquiry must be carried out in the context of a purported obvious "modification" of the prior art. The mere fact that the prior art may be modified in the manner suggested by the examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." *In re Fritch*, 972 F.2d 1260, 1266 n.15, 23 USPQ2d 1780, 1783-84 n.15 (Fed. Cir. 1992).

Logan is non-analogous art. Logan discloses an operational management system (OMS) for interconnecting cable systems and providing a cable television product to customers that allows for centralized and hierarchical control by the cable operators. This CableTV system has nothing to do with the creation and maintenance of asset records which provide for the creation of records of ownership of individual assets, from a multitude of classes assets, and for the maintenance, updating, editing, sharing, attributes of the individual records, as in the present invention. One of ordinary skill in the art would not look to CableTV OMS systems if they faced the problem to which the inventors have found a solution, namely a method by which records of ownership of assets can be maintained, shared, updated and potentially transferred by and between various interested entities. Furthermore, Applicant's method of managing read and write privileges is non-hierarchical and non-

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fixed as in Logan, but allows for the ongoing management and re-allocation of read and write privileges, and furthermore is not directed to a single type of product as in Logan.

Even assuming Logan is analogous art, which it is not, examiner has provided no indication of why or how one of ordinary skill in the art would be motivated or could adapt Logan to arrive at applicant's invention. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985)*. As already stated, one could not modify Logan to arrive at applicant's invention, nor would one of ordinary skill in the art be motivated to try based on the teachings of Logan. Logan does not teach a method or system for maintaining a electronic asset record that provides a record of ownership that allows multiple interested entities access to specific attributes and allows for the changing of read and write privileges of the entities to those attributes.

With respect to claims 17-19 and 21, applicant is confused by the wording of the rationale for the rejection and believes examiner has made a typographical error (page 11 line 2), and asks for clarification. Examiner states that the method of Logan *"is applicable to any type of assets since no patentable distinction is made between the between assets of the subject claims versus those of Logan"*. Applicant disagrees, and requests evidence to substantiate examiner's assertion. Logan does not describe assets in the way that applicant does, but instead defines a product as a CableTV good or service. Furthermore, as discussed above, the system of Logan is hierarchical, and does not allow for the managing of read and write privileges, and provide for a change in the hierarchy. The method of Logan is not applicable to any type of asset and could not provide the functionality of applicant's invention. Applicant's invention is clearly patentable distinct from that of Logan.

With respect to claims 27, 50 and 51, applicant requests evidence to substantiate the official notice taken. Furthermore Logan teaches away from allowing modification of read and write privileges; Logan specifically teaches that a highest level policy is set which then is fixed and the policies must be followed by the lower levels. It would not have been obvious to allow for the managing of the read and write privileges during the asset lifecycle. There is no suggestion in Logan as to how such a modification could enhance or even apply to its business operation.

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With respect to claims 46 and 78 examiner asserts that the system of Logan “*would be usable by any entity since no patentable distinction is made between the between entities of the subject claims versus those of Logan*”. Applicant disagrees, and requests evidence to substantiate examiner’s assertion. The only entities in Logan are those with an interest in providing CableTV services and products and the customers of those services and products. The method of Logan is not applicable to any entity and could not provide the functionality of applicant’s invention for the reasons stated above. Applicant’s invention is clearly patentably distinct from that of Logan. Furthermore, as discussed above, the system of Logan is hierarchical, and does not allow for the managing of read and write privileges, and provide for a change in the privileges by and amongst the various entities.

With respect to claims 66, 67, 64, applicant disagrees and requests evidence to support examiner’s assertion, and further submits, for the reasons discussed above, that applicant claims are patentably distinct from Logan, in that Logan would not be usable for any attributes, and for allowing the read and write privileges to be changed for the attributes including that of legal ownership.

The arguments above also apply to claims 17-19, 21, 46, 68-70, 82, and 83 which have been improperly rejected. Examiner has not explained how or why one would be motivated to modify Logan to allow for an insurer or financier of the asset to have access to the asset record (claims 68 and 81) or how Logan could be applied to an automobile (claims 69 and 82-83) or a financial asset (claim 18). These claims are patentably distinct from Logan and the rejections should be withdrawn.

Conclusion

For all the reasons discussed above, Applicant believes that all rejections have been overcome and submits that the application is in condition for allowance and requests a timely Notice of Allowance be issued.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific issue or comment does not signify agreement with or concession of that issue or comment. Because the arguments made may not be exhaustive, there may be reasons for patentability of any or all pending claims (or others) that have not been expressed. Nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as

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specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Respectfully submitted,

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